

BEST IMAGES POSSIBLE

THE FOLLOWING DOCUMENT OR DOCUMENTS
WERE SCANNED AS RECEIVED AND CONTAINS
THE BEST POSSIBLE IMAGE.

MICRO RECORDS COMPANY, INC
BALTIMORE, MARYLAND

IN RE: PETITION FOR SPECIAL HEARING
NW/End of Beachwood Road, 100'
NW of the c/l of Lynhurst Road
(4102 Beachwood Road)
15th Election District
5th Councilmanic District

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 89-479-SPH

Frederick Thiess
Petitioner

AMENDED ORDER

WHEREAS, the Petitioner herein requested a special hearing to approve a nonconforming use of the subject property as a warehouse in accordance with Petitioner's Exhibit 1;

WHEREAS, the relief requested was granted subject to restrictions on July 28, 1989;

WHEREAS, Counsel for Petitioner filed a Motion for Reconsideration on August 25, 1989 and a Memorandum in Support of Motion for Reconsideration on November 3, 1989 requesting a modification of Restriction Nos. 2, 3 and 4 of the Order issued July 28, 1989;

WHEREAS, upon consideration of Petitioner's Motion and Memorandum in Support of Motion for Reconsideration, and a review of the case file;

IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 10th day of September, 1990 that Restriction Nos. 3 and 4 of the Order issued July 28, 1989 be deleted in their entirety and Restriction No. 2 be modified to read as follows:

"2) Any office use on the subject property shall be incidental and accessory to and used for managing the warehouse use of the one-story concrete block building."

IT IS FURTHER ORDERED that, except as herein modified, all other conditions and restrictions contained in the Order issued July 28, 1989 shall remain in full force and effect.

ANN:bjjs
cc: John O. Hennegan, Esquire
809 Eastern Avenue, Baltimore, Md. 21221

All Protestants
People's Counsel
File

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ORDER FOR FILING
Date 9/19/90
By John O. Hennegan

IN RE: PETITION FOR SPECIAL HEARING
NW/END BEACHWOOD ROAD, 1300'
NW OF THE C/L OF LYNHURST ROAD
(4102 BEACHWOOD ROAD)
15TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER OF
* BALTIMORE COUNTY
* Case No: 89-479-SPH

Frederick Thiess,
Petitioner

MEMORANDUM IN SUPPORT OF MOTION FOR RECONSIDERATION

The Petitioner requested a special hearing to approve a nonconforming of the subject property as a warehouse and subsequent thereto, there was a hearing at which exhibits were presented and testimony was taken.

That on the 28th day of July, 1989, an Order was issued approving the nonconforming use of the subject property as a warehouse and placing on said nonconforming use, restrictions as set out below.

1. The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. Any office use on the subject property shall be limited to the small subordinate area set aside as accessory to and for managing the warehouse use of the one-story concrete block building.
3. Within thirty (30) days of the date of this Order, Petitioner shall provide detailed floor plans of the interior space clearly designating the area reserved for accessory office use, which shall be limited to one (1) employee at any given time, except for individuals dropping off and picking up warehouse items. Office

LAW FIRM
ROMADKA,
GONTRUM &
HENNEGAN, P.A.
ESSEX, MARYLAND

equipment shall be limited to one (1) desk, one (1) telephone, and one (1) computer and/or typewriter. Said plans must be approved by the Deputy Zoning Commissioner as being found in compliance with the terms and conditions of this Order or the use granted herein shall be rescinded.

4. Within sixty (60) days of the date of this Order, Petitioner shall provide documentation, i.e., lease agreement, etc., of a principal sales office at another location. Petitioner shall submit in writing for the case file updated documentation of principal office as location changes or as requested by the Zoning Enforcement Office.

5. There shall be no retail sales from the subject property.

6. The building designated on Petitioner's Exhibit 1 as two-story residence shall be used for residential purposes only.

7. Upon request and reasonable notice, Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

ISSUE

Does this tribunal have the power to limit and restrict an established lawful nonconforming use?

ARGUMENT

The area of controversy seems more particularly to revolve around the restrictions 2, 3 and 4 of the Order dated July 28, 1989. I surmise that the reasons for these restrictions are to prohibit retail sales from this particular location. Retail sales are not permitted in a manufacturing zone. However, wholesale sales are permitted, provided they are as clearly incidental to the use as a warehouse facility; See BC2R 24.1. The Petitioner does have a principal retail

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ESSEX, MARYLAND

office and sale location off premises and really has no objection to providing the Deputy Zoning Commissioner with the information requested. However, in the event that for business reasons, the Petitioner decides to dissolve his retail sales operation at this location without the intention of re-establishing it in any other location in the near future, the Order could be interpreted to render him in violation of said Order with whatever ramifications that might legally be imposed upon the Petitioner.

The Order also restricts office space use in a manner which is unrelated in any way to any business decision and it is not commensurate with the established lawful nonconforming use of the warehouse.

The Petitioner does not disagree with the interpretation of the law that the office use can only be permitted if it is an accessory to the warehouse use and any expansion or extension of that office use beyond that which would be determined to be accessory to the office use would in fact be unlawful. However, a number of telephones, desks, typewriters, personnel and any and all other office equipment or use which is necessary to run a warehouse of any size and nature, is one that is surely dependent upon the size and nature of the warehouse operation as permitted and can result in a hampering of the efficient operation of this business as well as unnecessary economic loss to the Petitioner. There is no operation that I am aware of whether it be retail,

warehouse, restaurant, tavern, or general commercial, nonconforming or as a matter of right, that does not have office space available to and incidental to that use. The space devoted for such a use is usually limited by the mere need. The space, required for the primary use, is essential to the operation and too valuable to be used as non-income producing space.

If the Petitioner expanded the office use beyond that which was incidental and accessory to the warehouse or conducted retail sales from the warehouse, he would be violating the zoning regulations as they exist today. Additionally, he would be subject to a fine and injunctive proceedings, and would be potentially abandoning the nonconforming warehouse use, and jeopardizing the lawful use which now exists on the site.

Most importantly, however, the law as it that presently stands, does not permit the Deputy Zoning Commissioner to place restrictions on a nonconforming use that is established, no matter how reasonable or necessary these restrictions are, whether or not they are necessary to address protestant's concerns, and however legitimate they are. The matters, which these restrictions do address, can be dealt with through other legal remedies or county agencies depending on the facts as they exist at the time of any occurrence. The County Board of Appeals of Baltimore County has ruled prior to this date, that once a nonconforming use is established, so long as that use

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ESSEX, MARYLAND

operates within the compliance of the law, restrictions can not be imposed. To place restrictions in an Order when there has been a ruling from a higher tribunal, that this is not permitted, it is a ultra vires act and therefore not enforceable or permitted. (See In the Matter of the Application of Marriott Corporation, County Board of Appeals of Baltimore County, Number 83-85-SPH and In the Matter of the Application of Ruxton Country Schools, Inc., County Board of Appeals of Baltimore County, Number 84-106-SPH.

It is therefore most respectfully requested that the restrictions imposed by the Deputy Zoning Commissioner of an Order dated July 28, 1989, in the above captioned case, be deleted and that the Deputy Zoning Commissioner's Order be modified accordingly.

Respectfully submitted,

John O. Hennegan
ROMADKA, GONTRUM & HENNEGAN
809 Eastern Boulevard
Baltimore, Maryland 21221
(301) 686-8274

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 3rd day of Nov, 1989, a copy of the foregoing Memorandum in Support of Motion for Reconsideration was mailed, postage prepaid to Ann M. Nastarowicz, Deputy Zoning Commissioner for

LAW FIRM
ROMADKA,
GONTRUM &
HENNEGAN, P.A.
ESSEX, MARYLAND

Baltimore County, and L. Robert Haines, Zoning Commissioner for Baltimore County, 1st Floor, County Office Building, Towson, Maryland 21204.

John O. Hennegan

LAW FIRM
ROMADKA,
GONTRUM &
HENNEGAN, P.A.
ESSEX, MARYLAND

ORDER FOR FILING
Date 9/19/90
By John O. Hennegan

LAW FIRM
ROMADKA,
GONTRUM &
HENNEGAN, P.A.
ESSEX, MARYLAND

LAW FIRM
Romadka, Gontrom & Hennegan, P.A.
1100 EASTERN FEDERAL BUILDING
809 EASTERN BOULEVARD
ESSEX, MARYLAND 21221
TELEPHONE (301) 686-8274
FAX (301) 686-8118

ROBERT J. ROMADKA
JOHN B. GONTROM
JOHN O. HENNEGAN
DONALD B. SHERIFF
NANCY E. DWYER
SHARON R. GAMBLE

November 3, 1989

Ann M. Nastarowicz
Deputy Zoning Commissioner
for Baltimore County
Office of Planning and Zoning
Towson, Maryland 21204

RE: Petition for Special Hearing
NW/End Beachwood Road, 100' NW of the c/l of Lynhurst Road
(4102 Beachwood Road)
15th Election District - 5th Councilmanic District
Frederick Theiss, Petitioner
Case Number: 89-479-SPH

Dear Ms. Nastarowicz:

Enclosed please find Memorandum in Support of Motion for Reconsideration to be filed with regard to the above matter.

Very truly yours,

John O. Hennegan
John O. Hennegan

JOH/kmc

Enclosure

cc: L. Robert Haines
Frederick Theiss

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

September 26, 1989



John O. Hennegan, Esquire
Romadka, Gontrom & Hennegan
809 Eastern Boulevard
Baltimore, Maryland 21221

RE: Petition for Special Hearing
NW/End Beachwood Road, 1300' NW of the c/l of Lynhurst Road
(4102 Beachwood Road)
15th Election District - 5th Councilmanic District
Frederick Theiss - Petitioner
Case No. 89-479-SPH

Dear Mr. Hennegan:

In response to your Motion for Reconsideration request dated August 25, 1989, please advise me of the status of the Memorandum you intend to submit. The Motion indicated that a Memorandum would be submitted at a later date regarding the use of a portion of the subject property as accessory office space. Upon receipt and review of said Memorandum, a decision on your Motion will be rendered.

If you have any questions on the subject, please do not hesitate to call this office. Thank you for your attention to this matter.

Very truly yours,

Ann M. Nastarowicz
Ann M. Nastarowicz

Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: Case File

IN RE: PETITION FOR SPECIAL HEARING
NW/END BEACHWOOD ROAD, 1300'
NW OF THE C/L OF LYNHURST ROAD
(4102 BEACHWOOD ROAD)
15TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER OF
* BALTIMORE COUNTY

Frederick Theiss,
Petitioner

MOTION FOR RECONSIDERATION

Now comes, FREDERICK THEISS, by and through his attorneys, John O. Hennegan and ROMADKA, GONTROM & HENNEGAN, and respectfully moves the Deputy Zoning Commissioner for Baltimore County to reconsider a portion of the Findings of Fact and Conclusions of Law dated July 28, 1989, in the above referenced case, pertaining to the subject property, known as 4102 Beachwood Road, says as follows:

1. That on page 7 of the Deputy Zoning Commissioner's Findings of Fact and Conclusions of Law, dated July 28, 1989, in the above referenced case, the Deputy Zoning Commissioner stated "there was no indication that in the past the subject property was used for office space by any of the previous tenants", and that the facts presented "indicates a use of the property for office space which is greater than accessory to the warehouse".

RECEIVED
AUG 25 1989
ZONING OFFICE

LAW FIRM
ROMADKA,
GONTROM
& HENNEGAN
ESSEX, MARYLAND

1

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 25th day of August, 1989 a copy of the foregoing Motion for Reconsideration was hand delivered, Ann M. Nastarowicz, Deputy Zoning Commissioner for Baltimore County, and L. Robert Haines, Zoning Commissioner for Baltimore County, 1st Floor, County Office Building, Towson, Maryland 21204, and People's Counsel, Court House, Towson, Maryland 21204.

John O. Hennegan
John O. Hennegan

LAW FIRM
ROMADKA,
GONTROM
& HENNEGAN
ESSEX, MARYLAND

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2. The Petitioner does not contest the Deputy Zoning Commissioner's findings with respect to the use of the one-story concrete building as a warehouse, but only with respect to the use of the property for accessory office space.

3. That, for reasons to be set forth in a Memorandum to be submitted at a later date, the Findings of Fact and Conclusions of Law of the Deputy Zoning Commissioner with respect to the use of the property for accessory office space, are not supported by the law and are against the weight of the evidence presented at the Special Hearing.

4. Based upon the Memorandum in support hereof and the allegations contained herein, the Petitioner respectfully asks the Deputy Zoning Commissioner to reconsider that portion of its Order dealing with the use of the subject property as accessory office space.

WHEREFORE, Petitioner respectfully requests this Board reconsider that portion of their Opinion dealing with the use of the subject property at 4102 Beachwood Road, as accessory office space.

John O. Hennegan
John O. Hennegan
ROMADKA, GONTROM & HENNEGAN
809 Eastern Boulevard
Baltimore, Maryland 21221
(301) 686-8274
Attorney for the Petitioner

LAW FIRM
ROMADKA,
GONTROM
& HENNEGAN
ESSEX, MARYLAND

2

IN RE: PETITION FOR SPECIAL HEARING
NW/End Beachwood Road, 1300'
NW of the c/l of Lynhurst Road
(4102 Beachwood Road)
15th Election District
5th Councilmanic District

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY

Frederick Theiss is
Petitioner

* Case No. 89-479-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve the nonconforming use of the subject property as a warehouse as more particularly described on Petitioner's Exhibit 1.

The Petitioner appeared, testified, and was represented by John O. Hennegan, Esquire. Also appearing and testifying on behalf of the Petition were Joseph Bruno, Sr. and Joseph Berardino. Appearing as Protestants were the following adjoining property owners: Walter R. Hnatiuk, Louis and Linda Mueller, Ruth Mershon, Wanda Hand, John and Irma Bryant, Ronald and Martha Nestor, James J. and Catherine I. Steiver, and Jim and Helen Montgomery.

Testimony indicated that the subject property, known as 4102 Beachwood Road, consists of 2.4 acres more or less zoned D.R. 5.5, and is located within the Chesapeake Bay Critical Areas on Back River. Said property is improved with a one story concrete block building and a two story residence. Prior to 1976, the property was zoned M.H.-I.M. Mr. Theiss testified he purchased the property on March 25, 1988 and uses the building as a warehouse and office space for shipping and receiving of goods associated with his office supplies and furniture business. Mr. Theiss testified he supplies general office supplies, including, but not limited to, stationary and furniture, and is a dealer for the Nashua Corporation

out of New Hampshire. Mr. Theiss testified that he has a retail store located on North Point Boulevard known as Reliable Office Products. As a result of a complaint filed in the Zoning Office, Petitioner was advised to file a Petition for Special Hearing to establish the nonconforming use of the property for warehouse space. The site plan indicates the property is used for both warehouse and office space. Mr. Theiss testified that since his purchase of the property, he has used the site for warehousing his supplies and as office use associated with his business. Testimony presented by Mr. Theiss was that in addition to himself, his wife, neice, and a driver work from the subject site. He further indicated that there are three phones and desks on the property for office use. Mr. Theiss testified that customers have only been to the site approximately 5 times and that the materials are shipped to the premises and delivered to customers and/or the retail store by his employees.

Joseph Bruno testified that he owned the subject property from 1973 to 1976. He further testified that prior to owning the property, he was involved for numerous years as a property manager for the previous owners of the subject property. Testimony indicated he has had direct contact with the property since the late 1950s. Mr. Bruno testified that prior to 1963, the subject building was used as the headquarters for the Wells-McCormac Democratic Club until the property was sold to four individuals, one of whom was his father. Mr. Bruno indicated that from 1963 to 1972 the property was leased to an individual who manufactured and stored cabinets on the premises. Thereafter, from 1972 to 1973, the property was leased to North Point Furnishers for the purposes of warehousing and distribution of their product. Mr. Bruno indicated that from 1978 to 1985 the property was leased to L. C. Hohne who used the property to warehouse

- 2 -

swimming pool materials. Thereafter, from 1985 to 1988 the property was leased to Louis D. Fillipino who warehoused items acquired by him in his endeavors in flea marketing. To support his testimony, Mr. Bruno introduced his rental records for the property from July 1973 to March 1988.

To support Petitioner's position, Counsel for Mr. Theiss introduced as Petitioner's Exhibit 6 the Department of Assessments and Taxation records for the property which indicate that the property was assessed as a house and warehouse space from 1984 through 1989 along with a worksheet for the periods of 1979 through 1989. The worksheet confirms the rental of the property and its use for storage purposes by various tenants.

Mr. Berardino testified he purchased the adjoining property, known as 4104 Beachwood Road, in 1974 and has had continual contact with the subject property since then, either renting or using same as his primary residence since 1987. Mr. Berardino testified that there have been no exterior changes to the property since 1972 and to the best of his knowledge and belief, the property has been continually used for warehousing purposes.

The Protestants' testimony presented by Mr. Berry, Ms. Hand, and Mr. Mueller expressed their overall concerns regarding the use of the property since it is zoned residential. The Protestants believe the heavy tractor trailer traffic to and from the subject property and other businesses in the vicinity is hazardous to the community as the roads are narrow. The Protestants indicated they do not feel the previous use of the property by Mr. Fillipino to store items purchased at flea markets is warehousing. Their main concern is that the traffic generated to and from Petitioner's use of the property will be greater than in the past.

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Zoning came officially to Baltimore County on January 2, 1945, when, pursuant to previous authorization by the General Assembly, the County Commissioners adopted a comprehensive set of zoning regulations.

The Commissioners were first authorized to adopt comprehensive planning and zoning regulations in 1939 (Laws of Maryland, 1939, ch. 715). At the next biennial session of the General Assembly, this authorization was repealed, and a new authorization was enacted (Laws of Md., 1941, ch. 247). Before any such regulations were issued, the Legislature authorized the Commissioners to make special exceptions to the regulations (Laws of Md., 1943, ch. 877). The first regulations were adopted and took effect on January 2, 1945. See Kahl v. Cons. Gas Elec. Light. and Pwr. Co., 191 Md. 249, 254, 60 A.2d 754 (1948); Calhoun v. County Board of Appeals, 262 Md. 265, 277 A.2d 589 (1971).

Section II of those regulations created seven zones, four being residential, one commercial, and two industrial. See McFay v. Baltimore County, Md., 39 Md. App. 257, 385 A.2d 96 (1978).

Those original regulations provided for nonconforming uses. The statute read as follows:

"A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue, provided, however, upon any change from such nonconforming use to a conforming use, or any attempt to change from such nonconforming use to a different nonconforming use or any discontinuance of such nonconforming use for a period of one year, or in case a nonconforming structure shall be damaged by fire or otherwise to the extent of seventy-five (75%) percent of its value, the right to continue to resume such nonconforming use shall terminate, provided, however, that any such lawful nonconforming use may be extended or enlarged to an extent not more than ~~once~~ again the area of the land used in the original nonconforming use." Section XI, 1945, B.C.Z.R.

- 4 -

Baltimore County adopted a new set of comprehensive zoning regulations on March 30, 1955. The issue of nonconforming uses are dealt with in Section 104 of those regulations. The Section then read:

"104.1. - A lawful nonconforming use existing on the effective date of the adoption of these regulations may continue; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used."

Section 104.1 was changed to its current language on March 15, 1976 by Bill No. 18-76. The current effective regulation reads as follows:

"A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these Regulations; provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, or in case any nonconforming business or manufacturing structure shall be damaged by fire or other casualty to the extent of seventy-five (75%) percent of its replacement cost at the time of such loss, the right to continue or resume such nonconforming use shall terminate. No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used. (B.C.Z.R., 1955; Bill No. 18, 1976)"

On August 4, 1980, the current language found in Section 104.2 was added to the B.C.Z.R. by Bill No. 167-80. This regulation placed an exception upon the general nonconforming rule for Special Exception office buildings. Said modification is irrelevant to the factual situation in this instance and therefore will not be set forth herein.

ORDER RECEIVED FOR FILING
Date 7/28/89
By J. Robert Haines

As with all non-conforming use cases, the first task is to determine what lawful non-conforming use existed on the subject property prior to January 2, 1945, the effective date of the adoption of the Zoning Regulations and the controlling date for the beginning of zoning and/or was permitted as of right thereafter. In this case, the testimony presented clearly proved the use was permitted as of right until 1976 under the then zoning of the property as M.H.-I.M. Said use has continued since.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the non-conforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered non-conforming. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A.2d 96 (1978).

It must be determined whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. The case law in Maryland is clear that an extension of use and the intensification of use are not one and the same. The evidence presented by the Protestants in opposition to the nonconforming use concerning the increased traffic is considered to be an intensification of use. The testimony was clear that there was no exterior change to the subject property; however, Petitioner proposes using the property for office space as well as warehouse space. The Maryland cases have generally held that when there is a change from one nonconforming use to a new and different use, the new use is held to be an unlawful extension of the use. Thus, the nonconforming use is deemed to have expired. However,

ORDER RECEIVED FOR FILING
Date 7/28/89
By J. Robert Haines

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when the testimony is found to create a factual scenario of the property being used more frequently, the use is held to be a lawful intensification. In those instances, the use is a valid nonconforming use. See Feldstein v. Lavale Zoning Board, 246 Md. 204, 227 A2d, 731 (1967), Tahner v. Staley, 245 Md. 130, 225 A2d, 277 (1967), Phillips v. Zoning Comm'r of Howard County, 225 Md. 1102, 169 A2d, 410 (1961).

After due consideration of the testimony and evidence presented, it is clear that a nonconforming use of the subject property as a warehouse has existed continually and without interruption since 1976. Said use at that time was a permitted use as of right. However, there was no indication that in the past the subject property was used for office space by any of the previous tenants. The facts presented regarding three employees working out of the premises indicates a use of the property for office space which is greater than accessory to the warehouse. To permit such use to continue would be an unlawful extension of same; therefore, such use must cease. Office use on the subject property shall be limited to having a small subordinate area set aside as accessory to and for managing the warehouse. The general office space for the business must be located elsewhere.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 28th day of July, 1989 that the Petition for Special Hearing to approve the nonconforming use of the subject property as a warehouse be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

ORDER RECEIVED FOR FILING
Date 7/28/89
By J. Robert Haines

- 7 -

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve _____

non-conforming use of the petitioners' property as a warehouse

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.: 686-8274

Legal Owner(s):

(Type or Print Name)

Signature

Address

City and State

Signature

Address

City and State

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City and State

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City and State

ORDER RECEIVED FOR FILING
Date 7/28/89
By J. Robert Haines

ZCO-No. 1

(over)

Phone: 687-4922

FRANK S. LEE

Registered Land Surveyor

1277 NEIGHBORS AVE. - BALTIMORE, MD. 21237

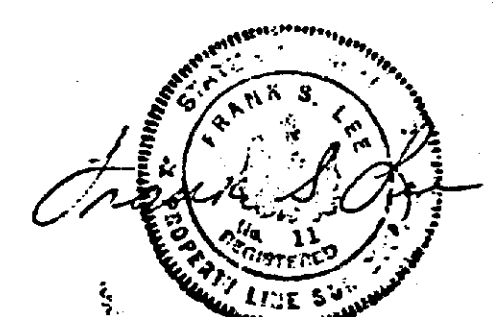
December 5, 1968

No. 4102 Beachwood Road

15th District Baltimore County, Maryland

Beginning for the same at the west end of Beachwood Road as laid out and shown on the plat of Beachwood, said plat being recorded among the land records of Baltimore County in Plat Book 10 folio 123 and being Lot 24 on said plat.

Containing 2.40 acres of land more or less.



1) The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2) Any office use on the subject property shall be limited to the small subordinate area set aside as accessory to and for managing the warehouse use of the one-story concrete block building.

3) Within thirty (30) days of the date of this Order, Petitioner shall provide detailed floor plans of the interior space clearly designating the area reserved for accessory office use, which shall be limited to one (1) employee at any given time, except for individuals dropping off and picking up warehouse items. Office equipment shall be limited to one (1) desk, one (1) telephone, and one (1) computer and/or typewriter. Said plans must be approved by the Deputy Zoning Commissioner as being found in compliance with the terms and conditions of this Order or the use granted herein shall be rescinded.

4) Within sixty (60) days of the date of this Order, Petitioner shall provide documentation, i.e., lease agreement, etc., of a principal sales office at another location. Petitioner shall submit in writing for the case file updated documentation of principal office as location changes or as requested by the Zoning Enforcement Office.

5) There shall be no retail sales from the subject property.

6) The building designated on Petitioner's Exhibit 1 as two-story residence shall be used for residential purposes only.

7) Upon request and reasonable notice, Petitioner shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ANN-bjs

- 8 -

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333

J. Robert Haines
Zoning Commissioner

July 28, 1989

John O. Hennegan, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

RE: PETITION FOR SPECIAL HEARING
NW/End Beachwood Road, 1,300' NW of the c/l of Lynhurst Road
(4102 Beachwood Road)
15th Election District - 5th Councilmanic District
Frederick Thiess - Petitioner
Case No. 89-479-SPH

Dear Mr. Hennegan:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ANN-bjs

cc: All Protestants

People's Counsel

File

Chesapeake Bay Critical Areas Commission
Tawes State Office Bldg., - D-4
Annapolis, Md. 21404

DEPM



Dennis F. Ravenstein
County Executive

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 107th Date of Posting: 5/16/89
 Posted for: Special Hearing
 Petitioner: Frederick Thiess
 Location of property: NW End Beachwood Rd. & 1700' NW Lynhurst Rd.
 Location of Sign: Facing Beachwood Rd. across P.E. Midway
 Remarks: Proposed by publisher
 Posted by: Signature Date of return: 5/16/89
 Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD. May 4 1989
 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on May 4 1989.

THE JEFFERSONIAN,
S. Zake Orban
 Publisher

PO12030
 reg M28927
 as 89-479-SPH
 price \$ 37.43

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:
 Petitioner: Frederick Thiess
 Case Number: 89-479-SPH
 NW End Beachwood Road, 1300' NW c/l Lynhurst Road
 4102 Beachwood Road
 15th Election District - 5th Councilmanic
 Petitioner(s): Frederick Thiess
 HEARING SCHEDULED: FRIDAY, MAY 26, 1989 at 9:30 a.m.
 Special Hearing: Non-conforming use of the petitioner's property as a warehouse.
 In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commission will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.
 J. Robert Haines
 Zoning Commissioner of Baltimore County

Middle River, Md. May 1 89
 This is to Certify, That the annexed Notice
Reg M 28926
 was inserted in the Times, a newspaper printed and published in Baltimore County, once in each of one successive weeks before the first day of May 1989
John O. Hennegan Publisher.

BALTIMORE COUNTY, MARYLAND
 OFFICE OF FINANCE - REVENUE DIVISION
 MISCELLANEOUS CASH RECEIPT

DATE: 5/16/89 ACCOUNT: 01-65
 AMOUNT: \$ 100.00
 RECEIVED FROM: Frederick Thiess (Initials: FT)
 FOR: Special Hearing (Item 335)
 B 0113*****1006078
 VALIDATION OR SIGNATURE OF CASHIER

Tracking System

Baltimore County
 Zoning Commissioner
 Office of Planning & Zoning

Date: May 1989 Receipt: 01065850401-61571521222 FEE: 04 TYPE: 01 Identification Number: 01-61571521222 Zip Code: 21204
 Petitioner: Thiess (Last) Frederick (First) (Middle Initial)
 Property Address: 4102 (Number) Beachwood Road (Street)

Baltimore County
 Zoning Commissioner
 Office of Planning & Zoning
 Towson, Maryland 21204
 494-3333
 J. Robert Haines
 Zoning Commissioner
 Mr. Frederick Thiess
 4102 Beachwood Road
 Baltimore, Maryland 21222

Re: Petition for Special Hearing
 CASE NUMBER: 89-479-SPH
 NW End Beachwood Road, 1300' NW c/l Lynhurst Road
 4102 Beachwood Road
 15th Election District - 5th Councilmanic
 Petitioner(s): Frederick Thiess
 HEARING SCHEDULED: FRIDAY, MAY 26, 1989 at 9:30 a.m.

Dear Mr. Thiess:

Please be advised that \$76.06 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is removed by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before your hearing is scheduled to begin.

Please note that should you fail to return the sign and post set(s), there will be an additional \$25.00 added to the above fee for each set not returned.

Very truly yours,

J. Robert Haines
 J. ROBERT HAINES
 Zoning Commissioner of Baltimore County

JRH:gs
 cc: John O. Hennegan, Esq.
 File

THE TIMES, INC.
 9506 Belair Road
 Baltimore, Maryland 21236

PUBLISHED BY THE SHIELD PRESS INC.
 Best Advertising Medium
 In County - \$6.50
 Per Office Copy - \$7.50
 Amount Due: \$23.63
 MAKE CHECKS PAYABLE TO THE ESSEX TIMES, INC.
 DATE TO RUN: 4/89

Baltimore County Maryland
 Office of Finance
 Room 150 Court House
 Towson, Md. 21204-4665
 P.O. NO. 12031
 MAY 4/89
 S.C. Petition
 Frederick Thiess
 REQ M 28926

89-479-SPH
 BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
 111 W. Chesapeake Avenue
 Towson, Maryland 21204

Your petition has been received and accepted for filing this 12th day of April, 1989.

Petitioner: Frederick Thiess
 Petitioner's Attorney: John O. Hennegan

Received by: James E. Dyer
 Chairman, Zoning Plans Advisory Committee

BALTIMORE COUNTY, MARYLAND
 OFFICE OF FINANCE - REVENUE DIVISION
 MISCELLANEOUS CASH RECEIPT

DATE: 5-26-89 ACCOUNT: PO-615-000
 AMOUNT: \$ 76.06
 RECEIVED FROM: Frederick Thiess
 FOR: RA for 5/26/89 hearing 89-479-SPH
 B 0113*****77777
 VALIDATION OR SIGNATURE OF CASHIER

Baltimore County
 Zoning Commissioner
 Office of Planning & Zoning
 Towson, Maryland 21204
 494-3333

J. Robert Haines
 Zoning Commissioner

April 17, 1989

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Hearing
 CASE NUMBER: 89-479-SPH
 NW End Beachwood Road, 1300' NW c/l Lynhurst Road
 4102 Beachwood Road
 15th Election District - 5th Councilmanic
 Petitioner(s): Frederick Thiess
 HEARING SCHEDULED: FRIDAY, MAY 26, 1989 at 9:30 a.m.

Special Hearings: Non-conforming use of the petitioner's property as a warehouse.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines
 J. ROBERT HAINES
 Zoning Commissioner of Baltimore County

cc: Frederick Thiess
 John O. Hennegan, Esq.
 File
 Wells-McCormack Improvement Assoc.
 Pat Williams/Dundalk Avenue
 Chesapeake Bay Critical Area Commission

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

May 4, 1989

John O. Hennegan, Esquire
 809 Eastern Boulevard
 Baltimore, MD 21221

RE: Item No. 335, Case No. 89-479-SPH
 Petitioner: Frederick Thiess
 Petition for Special Hearing

Dear Mr. Hennegan:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,
James E. Dyer
 JAMES E. DYER
 Chairman
 Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. Frederick Thiess
 4102 Beachwood Road
 Baltimore, MD 21222

Baltimore County
 Department of Public Works
 Bureau of Traffic Engineering
 Courts Building, Suite 405
 Towson, Maryland 21204
 494-3554

March 1, 1989

Mr. J. Robert Haines
 Zoning Commissioner
 County Office Building
 Towson, MD 21204

Dear Mr. Haines,

The Bureau of Traffic Engineering has no comments for items number 331, 332, 335, 337, & 338.

Very truly yours,

Michael S. Flanagan
 Michael S. Flanagan
 Traffic Engineer Assoc. II

MSF/lab

Baltimore County
 Fire Department
 Towson, Maryland 21204-2586
 494-4500

Paul H. Reincke
 Chief

J. Robert Haines, Zoning Commissioner
 Office of Planning & Zoning
 Baltimore County Office Building
 Towson, Maryland 21204

Re: Property Owner: Frederick Thiess

Location: NW end of Beachwood Road

Item No.: 335

Zoning Agenda: February 21, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

(X) 1. Fire hydrants for the referenced property are required and shall be located at intervals of 300 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: John O. Hennegan 3-17-89 NOTED & APPROVED: Paul H. Reincke
 Chief, Fire Prevention Bureau
 Special Inspection Division

/s/

